

ORIGINAL

CHIROPRACTIC PHYSICIANS'
BOARD OF NEVADA

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Cindy Wade
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BEFORE THE CHIROPRACTIC
PHYSICIANS BOARD OF NEVADA

IN THE MATTER OF)
)
JAMES OVERLAND, JR. D.C.) CASE NO. 06-18
) 06-19
LICENSE NO.: B526) 06-22
) Written Charges Pursuant to NRS 634
Respondent.)
_____)

ORDER REVOKING LICENSE OF JAMES OVERLAND JR.

On July 13, 2007, the CHIROPRACTIC PHYSICIANS BOARD OF NEVADA (Hereinafter "Board"), held a hearing regarding the Complaint and Notice of Hearing filed Against James Overland, Jr., D.C. Present at the Board Meeting were the following Board Members: Stephanie Youngblood D.C., President; Margaret Colucci D. C. Vice-President ; Ian Yamane, D.C., Secretary; Richard P. McCann, J.D., Consumer Member; Deed Harrison, D.C., Member; and Curtis Potts, D.C., Member.

By a majority vote on July 13, 2007 the Chiropractic Physicians' Board of Nevada approved and adopted the terms and conditions set forth in this Order Revoking License of JAMES T. OVERLAND, JR. D.C. Respondent

Present for the Board and prosecuting this action was Elizabeth J. Foley, Esq. Also present at the hearing was Cindy Wade, Executive Director of the Board. Gina Sessions, Esq., Deputy Attorney General, sat as Board counsel for purposes of this disciplinary action. James Overland, Jr., D.C. was not present and was not represented by legal counsel.

Based upon the provisions of NRS Chapter 634 and NAC Chapter 634, and pursuant to the relevant provisions of NRS Chapter 233B, the Board hereby makes the following Findings of Fact,

1 Conclusions of Law and Order.

2 FINDINGS OF FACT

- 3 1) On May 11, 2007, a settlement was put on the record before the Board of Chiropractic
4 Physicians with Dr. James Overland, Jr. D.C. appearing personally and expressly agreeing
5 to the terms of the Settlement. The May 11, 2007 Settlement stemmed from a Complaint
6 for Disciplinary Action filed on February 23, 2007 as Case Numbers 06-18; 06-19; and 06-
7 22; and
8
- 9 2) The terms of the Settlement put on the record before the Board on May 11, 2007 are as
10 follows:
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- 12 A) Respondent admits to guilt as to the violation of NRS 634.018 (1) I including
13 NAC 634.435(1) by failure to keep clear, complete and accurate patient records
14 and NAC 634.430 (1)(h) by failing to provide patient records upon request; and
15
- 16 B) Respondent shall pay a fine to the Board in the amount of Ten Thousand Dollars
17 (\$10,000.00) to be paid by August 12, 2007 and prior to reactivation of
18 Respondents License Number B-526 and said amount shall be reported to the
19 National Practitioners Data Bank; and
- 20 C) Respondent shall pay the sum of [Forty Two Thousand and Six Dollars and Thirty
21 Eight Cents (\$42,006.38)] to the Board for costs for investigative and attorneys
22 fees incurred by the Board to date; and one half of this amount Twenty One
23 Thousand and Three Dollars and Nineteen Cents, (\$21,0003.19) shall be paid to the
24 Board on or before August 12, 2007 and the balance to be paid in the amount of
25 \$1666.66 monthly payments beginning September 12, 2007 and continuing until
26 paid in full; and
27
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- 1 D) Pursuant to NRS 634.190(2)(d) Respondent agrees to the suspension of his
2 Chiropractic license for a period of one (1) year beginning August 12, 2007.
3 Respondent shall not be present at the premises of Advantage Chiropractic in
4 Henderson, Nevada during normal business hours during the one (1) year
5 suspension period. Normal business hours are defined as Monday through Friday
6 8:30 a.m. until 6:00 p.m. and Saturday 9:00 a.m. until 1:00 p.m. If the costs and
7 fines have not been paid in full at the end of the one year period ending August 12,
8 2008, the suspension will continue until the fine and costs are paid in full.
9
10 E) Respondent agrees to be placed on probation for a period of three (3) years
11 beginning at the end of the suspension . During the three (3) year probationary
12 period, Respondent shall allow a Board member and /or, the Compliance Officer,
13 approved by the Board and/or its agent to enter and inspect at any time his
14 chiropractic facility and review his patient records, including but not limited to new
15 patient and patient contact information, releases, liens, examination, x-rays and x-
16 ray reports, treatment records SOAP notes, superbills, sign-in sheets, narrative
17 reports, billing and payment records, receipt books, appointment calendars, and any
18 other records related to patient care, and all documents and records related to his
19 employment of persons to perform any manner of treatment to his patients,
20 including but not limited to employment applications, payroll records, registration
21 applications, correspondence with the Board, training programs and certificates.
22 Further upon request, Respondent must make available copies of any and all
23 agreements with any and all third parties; and
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25 F) Respondent agrees to take, and pass, the National Chiropractic Board Ethics and
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- Boundaries Examination within one year of the adoption of this Agreement; and
- G) Respondent agrees to take an additional twelve hours of continuing education course on record-keeping within one year; and
- H) Respondent agrees to reimburse the Board on a quarterly basis for the costs of hiring a Board appointed Compliance Officer who will physically meet and monitor his practice and file a written report quarterly on Dr. DR. JAMES OVERLAND, JR.'s compliance with and adherence to Nevada Statutes, Rules, and Regulations for a period of three (3) years from the end of the suspension of Dr. JAMES T. OVERLAND JR's license pursuant to Section 11(d) .; and
- I) Respondent agrees to strictly adhere to Chapter 634 of the Nevada Revised Statutes and the Nevada Administrative Code; and
- J) Any violation of this Agreed Settlement of NRS or NAC Chapter 634 constitutes grounds for the Board to take appropriate disciplinary action against Respondent; and
- K) DR. JAMES T. OVERLAND JR., hereby confesses to Judgment and agrees that any unpaid portion of the costs and fees shall be reduced to a judgment for punitive damages upon default; and
- L) DR. JAMES T. OVERLAND JR. will sign all further documents necessary to effectuate this agreement including but not limited to a Security Agreement; and
- M) Dr. JAMES T. OVERLAND JR. will timely comply with all Board investigations, records requests, and subpoenas; and
- N) The respondent shall be given an accounting of the costs assessed pursuant to Section 11(c) of this Agreement.

- 1 3) By letter dated May 30, 2007, Dr. Overland, Jr., D.C. was warned by prosecuting
2 attorney Elizabeth J. Foley, Esq. that unless he returned the executed Settlement
3 Agreement to her office by the close of business on Monday, June 4, 2007 that a new
4 Disciplinary Complaint would be filed and set for July 13, 2007. The letter dated May 30,
5 2007 was sent to Dr. Overland Jr. D.C. Via facsimile and United States Mail; and
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7 4) When Dr. Overland failed to return the executed Settlement Agreement, or to
8 propose any revisions to the Settlement Agreement, a second Complaint for Disciplinary
9 Action and Notice of Hearing was filed on June 14, 2007 in Case Number 06-18; 06-19,
10 and 06-22 seeking further discipline for unprofessional conduct; and
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12 5) Dr. Overland, Jr., D.C. received the second Complaint and sent a facsimile on
13 June 15, 2007 to Elizabeth J. Foley, Esq. requesting that she contact him as soon as
14 possible "to discuss the needless Complaint that you filed."; and
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16 6) James Overland Jr. failed to file any Answer to the June 14, 2007 Complaint
17 despite the following language on the first page of the Complaint:
18 "An Answer to this Notice of Charges must be filed with the Board and served upon the
19 Board's counsel within fifteen (15) days after service of this Notice of Charges. A
20 Respondent who fails to Answer this Notice of Charges within Fifteen (15) days shall be
21 deemed to have admitted the allegations set forth in this Notice of Charges. Based on those
22 admissions, the Board may impose discipline on the licensee in the same manner as if the
23 allegation had been proven by substantial evidence at a hearing of the Board held on the
24 Complaint."; and
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26 7) James Overland Jr. has been disciplined by the Board of Chiropractic Physicians
27 on numerous occasions. James Overland, Jr. was initially disciplined for failing to renew
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his Chiropractic License and continuing to practice Chiropractic on a suspended license;
and

- 8) Respondent JAMES OVERLAND, JR., was previously found guilty of the following violations: (1) NRS 634.018(15) and/or NRS 634.018(11), including NAC 634.415 and/or NAC 634.430(m), by permitting unlicensed personnel to perform patient services; (2) NRS 634.018(11), including NRS 634.125, and/or NAC 634.415 and/or NAC 634.119, by allowing the treatment of his patients while he was absent from his practice; (3) NRS 634.018(11), including NAC 634.430(1)(e)(1), by billing patients for adjustments that were not actually provided; (4) NRS 634.018(11), including NAC 634.435(1), by failing to keep clear, complete and accurate patient records; (5) NRS 634.018(11), including NAC 634.430(1)(g), by providing falsified SOAP notes to the board's investigator; (6) NRS 634.018(11), including NAC 634.430(1)(g), by failing to provide employment records as requested by the board's investigator; (7) NRS 634.018(11), including NAC 634.430(1)(h), by failing to provide patient records upon request. Effective June 20, 2003 Dr. Overland's license was suspended for three years with the suspension stayed provided he reimburse the board \$52,011.23 for its costs within 90 days of the effective date of the board's order; Dr. Overland Jr. he was assessed a fine in the amount of \$7,000 to be paid within twelve months of the effective date of the board's order; he was required to attend a board approved record keeping seminar with credit to be given for renewal of his license and to attend a board approved ethics course, both to be attended within twelve months; he was required to hire at his expense a board approved compliance officer to monitor his practice for three years with quarterly reports to be submitted to the board; he was required to take and pass the CPBN law test within 90 days of the effective

1 date of the board's order with two opportunities to pass; and he was required to take and
2 pass the National Board SPEC test within 12 months of the effective date of the board's
3 order with two opportunities to pass. Dr. Overland's license was to be suspended if he fails
4 to meet any of the above requirements; and
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6 9) The Disciplinary Hearing on the alleged unprofessional conduct was scheduled to begin at
7 9:00 a.m. July 13, 2007. At 8:39 a.m. on July 13, 2007, Dr. Overland Jr.'s office faxed a
8 message that Dr. Overland Jr. has had a personal emergency out of state and is unable to
9 personally address the issues; and
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11 10) The Board was presented with copy of the facsimile from Dr. Overland Jr.'s office and
12 elected to proceed with the disciplinary hearing; and

13 11) The Board reviewed the documentary evidence and ruled that Dr. Overland Jr. had engaged
14 in unprofessional conduct and was in breach of the express terms of the Settlement
15 Agreement; and

16 12) Following open and public deliberations the Board voted unanimously to impose the
17 following penalties for the unprofessional conduct and breach of the Settlement Agreement:
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19 A) Revocation of Dr. Overland, Jr.'s License Number B526 for period of three (3)
20 years to begin thirty days form the date this Order is executed by the Board
21 President; and

22 B) Imposition an additional of fine the amount of Ten Thousand Dollars
23 (\$10,000.00) which must be paid prior to any application for reinstatement may be
24 filed; and
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26 C) All costs and fees of the Board incurred from May 12, 2007 through the
27 date this Order is executed by the President of the Board in the amount to be
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determined by the Executive Director of the Board.

CONCLUSIONS OF LAW

- 1) The case was properly noticed pursuant to NRS 241.020; and
- 2) Dr. James Overland, Jr. was timely sent the Notices to his last known business address required by NRS 241.33; NRS 233B.121 and NRS 233B.127(3) in the form of a Complaint and Notice of Hearing and letters from the prosecuting attorney; and
- 3) Dr. James Overland Jr. actually received the Complaint and failed to file and Answer thereto; and
- 4) A majority of the Board Members were present at the hearing. See NRS 634.020(1); and
- 5) The case was presented to the Board as one of unprofessional conduct and breach of Settlement Agreement; and
- 6) The Board has the authority to revoke licenses. NRS 634.190(2)(b); and
- 7) The totality of circumstance surrounding the repeated disciplinary violations of Dr. James Overland, Jr. justify the revocation of his licenses as a Chiropractic Physician; and
- 8) The Board also has the authority to require that a licensee pay the costs of a hearing NRS 634.190(2)(g); and
- 9) The Board also has authority to impose fines for disciplinary violations.

ORDER

Based upon the proceeding, it is hereby ORDERED that the Chiropractic Physicians license of James Overland Jr. B526 should be and the same is hereby revoked for a period of three (3) years beginning thirty (30) days following the execution of this Order by the Board President; and


IT IS FURTHER ORDERED that James Overland, Jr. pay a fine of Ten Thousand Dollars (\$10,000.00) to the State of Nevada prior to filing any application for reinstatement of his Nevada

1 License to practice chiropractic; and

2 IT IS FURTHER ORDERED that James Overland Jr. Reimburse the Board for its costs of
3 this proceeding in the amount of \$2,420.98 prior to filing any application for reinstatement of his
4 Nevada Chiropractic Physicians License.
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6 DATED this 26 day of July, 2007.

7 APPROVED AS TO FORM & CONTENT

8
9 
10 ELIZABETH J. FOLEY, ESQ.
11 BOARD COUNSEL

12 IT IS SO ORDERED this 26 day of July, 2007.
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16 BY Dr. Stephanie Youngblood
17 STEPHANIE YOUNGBLOOD, D.C.
18 President, Chiropractic Physicians' Board of
19 Nevada
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